

106TH CONGRESS
2D SESSION

S. 2619

To provide for drug-free prisons.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2000

Mr. LEAHY (for himself, Mr. ROBB, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for drug-free prisons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug-Free Prisons Act
5 of 2000”.

6 **TITLE I—DRUG TESTING**
7 **PROGRAMS FOR PRISONS**

8 **SEC. 101. GRANT AUTHORITY.**

9 (a) IN GENERAL.—The Attorney General may make
10 grants to States and units of local government, State
11 courts, local courts, and Indian tribal governments, acting

1 directly or through agreements with other public or private
 2 entities, for programs that support—

3 (1) developing and implementing comprehensive
 4 drug testing policies and practices with regard to
 5 criminal justice populations; and

6 (2) establishing appropriate interventions to il-
 7 legal drug use for offender populations.

8 (b) JOINT APPLICATIONS.—Applicants may choose to
 9 submit joint proposals with other eligible criminal justice
 10 and court agencies for systemic drug testing and interven-
 11 tion programs. One of the agencies submitting a joint pro-
 12 posal shall be designated as the primary applicant.

13 **SEC. 102. ADMINISTRATION.**

14 (a) CONSULTATION AND COORDINATION.—In car-
 15 rying out this title, the Attorney General shall coordinate
 16 with the other Department of Justice initiatives that ad-
 17 dress drug testing and interventions in the criminal justice
 18 system.

19 (b) GUIDELINES.—The Attorney General may issue
 20 guidelines necessary to carry out this title.

21 (c) APPLICATIONS.—In addition to any other require-
 22 ments that may be specified by the Attorney General, an
 23 application for a grant under this title shall—

24 (1) reflect a comprehensive approach that rec-
 25 ognizes the importance of collaboration and a con-

1 tinuum of testing, treatment, and other interven-
2 tions;

3 (2) include a long-term strategy and detailed
4 implementation plan;

5 (3) address the applicant's capability to con-
6 tinue the proposed program following the conclusion
7 of Federal support;

8 (4) identify related governmental or community
9 initiatives that complement or will be coordinated
10 with the proposal;

11 (5) certify that there has been appropriate con-
12 sultation with affected agencies and key stakeholders
13 throughout the criminal justice system and that
14 there will be continued coordination throughout the
15 implementation of the program; and

16 (6) describe the methodology that will be used
17 in evaluating the program.

18 **SEC. 103. APPLICATIONS.**

19 (a) IN GENERAL.—To request funds under this title,
20 interested applicants shall submit an application to the At-
21 torney General in such form and containing such informa-
22 tion as the Attorney General may reasonably require.

23 (b) COMPETITIVE GRANTS.—Federal funding shall be
24 awarded on a competitive basis based on criteria estab-

1 lished by the Attorney General and specified in program
2 guidelines.

3 **SEC. 104. FEDERAL SHARE.**

4 (a) IN GENERAL.—The Federal share of a grant
5 made under this title may not exceed 75 percent of the
6 total cost of the program described in the application sub-
7 mitted for the fiscal year for which the program receives
8 assistance under section 101, unless the Attorney General
9 waives, wholly or in part, the requirement of a matching
10 contribution under this section.

11 (b) IN-KIND CONTRIBUTIONS.—In-kind contribu-
12 tions may constitute a portion of the non-Federal share
13 of a grant.

14 **SEC. 105. GEOGRAPHIC DISTRIBUTION.**

15 (a) IN GENERAL.—The Attorney General shall en-
16 sure that, to the extent practicable, an equitable geo-
17 graphic distribution of grant awards under this title is
18 made, with rural and tribal jurisdiction representation.

19 (b) MINIMUM ALLOCATION.—Unless all eligible appli-
20 cations submitted by any State or unit of local government
21 within such State for a grant under this section have been
22 funded, such State, together with grantees within the
23 State (other than Indian tribes), shall be allocated in each
24 fiscal year under this section not less than 0.75 percent

1 of the total amount appropriated in the fiscal year for
2 grants pursuant to this section.

3 **SEC. 106. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-**
4 **UATION.**

5 (a) TECHNICAL ASSISTANCE AND TRAINING.—The
6 Attorney General shall provide technical assistance and
7 training in furtherance of the purposes of this title.

8 (b) EVALUATION.—In addition to any evaluation re-
9 quirements that may be prescribed for grantees, the Attor-
10 ney General may carry out or make arrangements for a
11 rigorous evaluation of the programs that receive support
12 under this title.

13 (c) ADMINISTRATION.—The technical assistance,
14 training, and evaluations authorized by this section may
15 be carried out directly by the Attorney General or through
16 grants, contracts, or cooperative agreements with other
17 entities.

18 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There are authorized to be appro-
20 priated to carry out this title \$75,000,000 for fiscal year
21 2001 and such sums as may be necessary for fiscal years
22 2002 through 2005.

23 (b) PERMANENT SET-ASIDE FOR RESEARCH AND
24 EVALUATION.—The Attorney General shall reserve not
25 less than 1 percent and no more than 3 percent of the

1 sums appropriated under this section in each fiscal year
 2 for research and evaluation of this program.

3 **TITLE II—TRUTH-IN-** 4 **SENTENCING GRANT PROGRAMS**

5 **SEC. 201. TRUTH-IN-SENTENCING GRANT PROGRAMS.**

6 (a) SHARING OF FUNDS WITH COUNTIES.—Section
 7 20105(b) of the Violent Crime Control and Law Enforce-
 8 ment Act of 1994 (42 U.S.C. 13705(b)) is amended to
 9 read as follows:

10 “(b) ADDITIONAL REQUIREMENTS.—

11 “(1) ELIGIBILITY FOR GRANT.—To be eligible
 12 to receive a grant under section 20103 or 20104, a
 13 State shall—

14 “(A) provide assurances to the Attorney
 15 General that the State has implemented or will
 16 implement not later than 18 months after the
 17 date of enactment of this subtitle, policies that
 18 provide for the recognition of the rights of
 19 crime victims; and

20 “(B) no later than December 31, 2000,
 21 have a program of drug testing and interven-
 22 tion for appropriate categories of convicted of-
 23 fenders during periods of incarceration and
 24 criminal justice supervision, with sanctions that
 25 may include denial or revocation of release for

1 positive drug tests, consistent with guidelines
2 issued by the Attorney General.

3 “(2) USE OF FUNDS.—Funds provided under
4 section 20103 or 20104 may be—

5 “(A) applied to the cost of offender drug
6 testing and appropriate intervention programs
7 during periods of incarceration and criminal
8 justice supervision, consistent with guidelines
9 issued by the Attorney General; and

10 “(B) used by the States to pay the costs
11 of providing to the Attorney General a baseline
12 study on their prison drug abuse problem, con-
13 sistent with guidelines issued by the Attorney
14 General.

15 “(3) SYSTEM OF SANCTIONS AND PENALTIES.—

16 “(A) IN GENERAL.—Beginning in fiscal
17 year 2001, and thereafter, States receiving
18 funds pursuant to section 20103 or 20104 shall
19 have a system of sanctions and penalties that
20 address drug trafficking within and into correc-
21 tional facilities under their jurisdiction, in ac-
22 cordance with guidelines issued by the Attorney
23 General.

24 “(B) REDUCTION FOR NONCOMPLIANCE.—
25 Beginning in fiscal year 2001, and each year

thereafter, any State that the Attorney General determines not to be in compliance with the provisions of this paragraph shall have the funds it would have otherwise been eligible to receive under section 20103 or 20104 reduced by 10 percent for each fiscal year for which the Attorney General determines it does not comply.

“(C) REALLOCATION.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.”.

(b) FORMULA FOR GRANTS.—Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706) is amended by striking subsection (b) and inserting the following:

“(b) FORMULA ALLOCATION.—The amount made available to carry out this section for any fiscal year under section 20104 shall be allocated as follows:

“(1) 0.75 percent shall be allocated to each State that meets the requirements of sections 20103 and 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

1 “(2) The amount remaining after the applica-
2 tion of paragraph (1) shall be allocated to each
3 State that meets the requirements of section 20104
4 in the ratio that the average annual number of part
5 1 violent crimes reported by that State to the Fed-
6 eral Bureau of Investigation for the 3 years pre-
7 ceding the year in which the determination is made
8 bears to the average annual number of part 1 violent
9 crimes reported by States that meet the require-
10 ments of section 20104 to the Federal Bureau of In-
11 vestigation for the 3 years preceding the year in
12 which the determination is made, except that a State
13 may not receive more than 25 percent of the total
14 amount available for those grants.”.

15 **TITLE III—REESTABLISHMENT** 16 **OF DRUG COURTS**

17 **SEC. 301. REESTABLISHMENT OF DRUG COURTS.**

18 (a) DRUG COURTS.—Title I of the Omnibus Crime
19 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
20 et seq.) is amended by inserting after part U the following
21 new part:

22 **“PART V—DRUG COURTS**

23 **“SEC. 2201. GRANT AUTHORITY.**

24 “The Attorney General may make grants to States,
25 State courts, local courts, units of local government, and

1 Indian tribal governments, acting directly or through
2 agreements with other public or private entities, for pro-
3 grams that involve—

4 “(1) continuing judicial supervision over offend-
5 ers with substance abuse problems who are not vio-
6 lent offenders; and

7 “(2) the integrated administration of other
8 sanctions and services, which shall include—

9 “(A) mandatory periodic testing for the
10 use of controlled substances or other addictive
11 substances during any period of supervised re-
12 lease or probation for each participant;

13 “(B) substance abuse treatment for each
14 participant;

15 “(C) diversion, probation, or other super-
16 vised release involving the possibility of prosecu-
17 tion, confinement, or incarceration based on
18 noncompliance with program requirements or
19 failure to show satisfactory progress; and

20 “(D) offender management, and aftercare
21 services such as relapse prevention, health care,
22 education, vocational training, job placement,
23 housing placement, and child care or other fam-
24 ily support services for each participant who re-
25 quires such services.

1 **“SEC. 2202. PROHIBITION OF PARTICIPATION BY VIOLENT**
2 **OFFENDERS.**

3 “The Attorney General shall—

4 “(1) issue regulations or guidelines to ensure
5 that the programs authorized in this part do not
6 permit participation by violent offenders; and

7 “(2) immediately suspend funding for any grant
8 under this part, pending compliance, if the Attorney
9 General finds that violent offenders are participating
10 in any program funded under this part.

11 **“SEC. 2203. DEFINITION.**

12 “In this part, the term ‘violent offender’ means a per-
13 son who—

14 “(1) is charged with or convicted of an offense,
15 during the course of which offense or conduct—

16 “(A) the person carried, possessed, or used
17 a firearm or dangerous weapon;

18 “(B) there occurred the death of or serious
19 bodily injury to any person; or

20 “(C) there occurred the use of force
21 against the person of another, without regard to
22 whether any of the circumstances described in
23 subparagraph (A) or (B) is an element of the
24 offense or conduct of which or for which the
25 person is charged or convicted; or

1 “(2) has 1 or more prior convictions for a fel-
2 ony crime of violence involving the use or attempted
3 use of force against a person with the intent to
4 cause death or serious bodily harm.

5 **“SEC. 2204. ADMINISTRATION.**

6 “(a) CONSULTATION.—The Attorney General shall
7 consult with the Secretary of Health and Human Services
8 and any other appropriate officials in carrying out this
9 part.

10 “(b) USE OF COMPONENTS.—The Attorney General
11 may utilize any component or components of the Depart-
12 ment of Justice in carrying out this part.

13 “(c) REGULATORY AUTHORITY.—The Attorney Gen-
14 eral may issue regulations and guidelines necessary to
15 carry out this part.

16 “(d) APPLICATIONS.—In addition to any other re-
17 quirements that may be specified by the Attorney General,
18 an application for a grant under this part shall—

19 “(1) include a long-term strategy and detailed
20 implementation plan;

21 “(2) explain the applicant’s inability to fund the
22 program adequately without Federal assistance;

23 “(3) certify that the Federal support provided
24 will be used to supplement, and not supplant, State,

1 Indian tribal, and local sources of funding that
2 would otherwise be available;

3 “(4) identify related governmental or commu-
4 nity initiatives which complement or will be coordi-
5 nated with the proposal;

6 “(5) certify that there has been appropriate
7 consultation with all affected agencies and that there
8 will be appropriate coordination with all affected
9 agencies in the implementation of the program;

10 “(6) certify that participating offenders will be
11 supervised by 1 or more designated judges with re-
12 sponsibility for the drug court program;

13 “(7) specify plans for obtaining necessary sup-
14 port and continuing the proposed program following
15 the conclusion of Federal support; and

16 “(8) describe the methodology that will be used
17 in evaluating the program.

18 **“SEC. 2205. APPLICATIONS.**

19 “To request funds under this part, the chief executive
20 or the chief justice of a State or the chief executive or
21 chief judge of a unit of local government or Indian tribal
22 government, or the chief judge of a State or local court
23 or Indian tribal court shall submit an application to the
24 Attorney General in such form and containing such infor-
25 mation as the Attorney General may reasonably require.

1 **“SEC. 2206. FEDERAL SHARE.**

2 “(a) IN GENERAL.—The Federal share of a grant
3 made under this part may not exceed 75 percent of the
4 total costs of the program described in the application sub-
5 mitted under section 2205 for the fiscal year for which
6 the program receives assistance under this part, unless the
7 Attorney General waives, wholly or in part, the require-
8 ment of a matching contribution under this section.

9 “(b) IN-KIND CONTRIBUTIONS.—In-kind contribu-
10 tions may constitute a portion of the non-Federal share
11 of a grant.

12 **“SEC. 2207. GEOGRAPHIC DISTRIBUTION.**

13 “The Attorney General shall ensure that, to the ex-
14 tent practicable, an equitable geographic distribution of
15 grant awards is made.

16 **“SEC. 2208. REPORT.**

17 “A State, Indian tribal government, or unit of local
18 government that receives funds under this part during a
19 fiscal year shall submit to the Attorney General a report
20 in March of the following year regarding the effectiveness
21 of this part.

22 **“SEC. 2209. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-**
23 **UATION.**

24 “(a) TECHNICAL ASSISTANCE AND TRAINING.—The
25 Attorney General may provide technical assistance and
26 training in furtherance of the purposes of this part.

1 “(b) EVALUATIONS.—In addition to any evaluation
 2 requirements that may be prescribed for grantees, the At-
 3 torney General may carry out or make arrangements for
 4 evaluations of programs that receive support under this
 5 part.

6 “(c) ADMINISTRATION.—The technical assistance,
 7 training, and evaluations authorized by this section may
 8 be carried out directly by the Attorney General, in collabo-
 9 ration with the Secretary of Health and Human Services,
 10 or through grants, contracts, or other cooperative arrange-
 11 ments with other entities.”.

12 (b) TECHNICAL AMENDMENT.—The table of contents
 13 of title I of the Omnibus Crime Control and Safe Streets
 14 Act of 1968 (42 U.S.C. 3711 et seq.) is amended by in-
 15 serting after the matter relating to part U the following:

“PART V—DRUG COURTS

“Sec. 2201. Grant authority.

“Sec. 2202. Prohibition of participation by violent offenders.

“Sec. 2203. Definition.

“Sec. 2204. Administration.

“Sec. 2205. Applications.

“Sec. 2206. Federal share.

“Sec. 2207. Geographic distribution.

“Sec. 2208. Report.

“Sec. 2209. Technical assistance, training, and evaluation.”.

16 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 1001(a) of title I of the Omnibus Crime Con-
 18 trol and Safe Streets Act of 1968 (42 U.S.C. 3793) is
 19 amended—

1 (1) in paragraph (3), by inserting “V” between
 2 “U” and “W”; and

3 (2) by adding at the end the following new
 4 paragraph:

5 “(20)(A) There are authorized to be appro-
 6 priated for fiscal year 2001 the sum of \$50,000,000
 7 and for fiscal years 2002 through 2005 such sums
 8 as may be necessary to carry out part V.

9 “(B) The Attorney General shall reserve not
 10 less than 1 percent and not more than 3 percent of
 11 the sums appropriated for this program in each fis-
 12 cal year for research and evaluation of this pro-
 13 gram.”.

14 **TITLE IV—MISCELLANEOUS** 15 **PROVISIONS**

16 **SEC. 401. REAUTHORIZATION OF THE RESIDENTIAL SUB-** 17 **STANCE ABUSE TREATMENT GRANT PRO-** 18 **GRAM.**

19 Paragraph (17) of section 1001(a) of title I of the
 20 Omnibus Crime Control and Safe Streets Act of 1968 (42
 21 U.S.C. 3793(a)(17)) is amended to read as follows:

22 “(17) There are authorized to be appropriated
 23 to carry out part S \$65,100,000 for fiscal year 2001
 24 and such sums as may be necessary for fiscal years
 25 2002 through 2005.”.

1 **SEC. 402. USE OF RESIDENTIAL SUBSTANCE ABUSE TREAT-**
2 **MENT GRANTS TO PROVIDE FOR SERVICES**
3 **DURING AND AFTER INCARCERATION.**

4 Section 1901 of title I of the Omnibus Crime Control
5 and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is
6 amended by adding at the end the following:

7 “(c) **ADDITIONAL USE OF FUNDS.**—States that dem-
8 onstrate that they have existing in-prison drug treatment
9 programs that are in compliance with Federal require-
10 ments may use funds awarded under this part for treat-
11 ment and sanctions both during incarceration and after
12 release.”.

13 **SEC. 403. EXCEPTIONS TO TIME LIMITS FOR BYRNE PRO-**
14 **GRAM GRANTS FOR CERTAIN PURPOSES.**

15 Section 504(f) of the Omnibus Crime Control and
16 Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended
17 to read as follows:

18 “(f) **PROGRAMS ALREADY RECEIVING FUNDS.**—No
19 funds may be awarded under this part to a grant recipient
20 for a program or project for which funds have been award-
21 ed under this chapter for 4 years (in the aggregate), in-
22 cluding any period occurring before the effective date of
23 this subsection except for grants to State and local govern-
24 ments for—

25 “(1) participating in multijurisdictional drug
26 task forces and gang task forces;

1 “(2) victim assistance programs;

2 “(3) drug and alcohol abuse treatment in pris-
3 ons and jails;

4 “(4) community-based programs for adult and
5 juvenile drug-dependent and alcohol-dependent of-
6 fenders;

7 “(5) monitoring of drug-dependent offenders;

8 “(6) those innovative programs that dem-
9 onstrate new and different approaches to enforce-
10 ment, prosecution, and adjudication of drug and
11 other serious crimes that include all aspects of com-
12 munity-based intervention, surveillance, and super-
13 vision; and

14 “(7) providing alternatives to prevent detention,
15 jail, and prison for persons who pose no danger to
16 the community.”.

17 **SEC. 404. PROVISION TO FREE EXISTING PRISON SPACE**
18 **FOR VIOLENT OFFENDER INCARCERATION.**

19 (a) IN GENERAL.—Section 20105 of part A of the
20 Violent Crime Control and Law Enforcement Act of 1994
21 (42 U.S.C. 13705) is amended by—

22 (1) redesignating subsections (d) and (e), as
23 subsections (f) and (g), respectively; and

24 (2) inserting after subsection (c) the following:

1 “(d) GRADUATED SANCTIONS.—Notwithstanding any
 2 other provision of this part, any State or unit of local gov-
 3 ernment which has unexpended funds granted to it under
 4 section 20103 or 20104 for the fiscal years 1996 through
 5 2001, may expend not more than 25 percent of such funds
 6 for the implementation of graduated sanctions or sen-
 7 tencing alternatives to incarceration, provided that such
 8 implementation shall be undertaken by said State or unit
 9 of local government for the purpose of freeing suitable ex-
 10 isting prison space for the confinement of persons con-
 11 victed of part 1 violent crimes.

12 “(e) DEFINITION.—For purposes of subsection (d),
 13 the term ‘graduated sanctions’—

14 “(1) means tangible, proportional consequences
 15 that hold offenders accountable and are imposed on
 16 offenders for every offense, that escalate in intensity
 17 with each subsequent, more serious offense, that are
 18 suited to the offense, and that also take equally into
 19 account public safety considerations and concern for
 20 crime victims; and

21 “(2) includes intensive community supervision,
 22 regular drug testing, and treatment supervised by
 23 drug courts or other criminal justice agencies, victim
 24 and community restitution, and certain, but short-
 25 term, incarceration.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Sub-
2 section (a) of section 20108 of part A of the Violent Crime
3 Control and Law Enforcement Act of 1994 (42 U.S.C.
4 13708(a)) is amended to read as follows:

5 “(a) AUTHORIZATIONS.—There are authorized to be
6 appropriated to carry out this part such sums as may be
7 necessary for fiscal years 2001 through 2005.”.

○